

# **2005 Annual Report of the Lawyer Assistance Program of the State Bar of California**

## **—MISSION STATEMENT—**

The mission of the Lawyer Assistance Program is to support recovering attorneys in their rehabilitation and competent practice of law, enhance public protection, and maintain the integrity of the legal profession.

**In Compliance with Bus. & Prof. Code § 6238  
March 1, 2006**

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# Introduction

This is the fourth Annual Report of the Lawyer Assistance Program (“LAP” or “Program”) of the State Bar of California, as required by Section 6238 of the Business and Professions Code. As the statute provides, the Annual Report includes information concerning the number of attorney participants accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the Program. It also addresses the development of the Program in its fourth year, its status at the end of the year, and its plans for 2006.

The LAP was established by the California Legislature in 2002 as a confidential resource for every California attorney whose personal or professional life suffers from substance abuse or dependence and/or mental health concerns such as depression or anxiety. Many attorneys refer themselves to the Program; others are referred as the result of an investigation or disciplinary proceeding.

The LAP provides a comprehensive program of professional support and structure including expert assessment, arrangements for treatment, monitored continuing care, random lab testing, and professionally facilitated support groups. The program also offers free, short-term counseling to all attorneys to address stress, burnout, or career challenges. The Program works with family members, friends, colleagues, judges and other court staff who wish to obtain help for an impaired attorney.



# Executive Summary

In 2005, the LAP achieved great progress toward meeting the goals of the LAP Oversight Committee Long-Range Strategic Plan. The program provided effective early intervention, outreach and education; demonstrated program results; ensured sufficient resources to effectively support service delivery; augmented available financial assistance resources; and fostered the network of lawyer assistance programs nationwide to share ideas and information.

One clear sign of the program's success is that the vast majority of disciplined attorneys who participate in the LAP are now honoring their obligations to their clients and to the profession. *Restitution is being paid; ethics education is being completed; and most important, there has been virtually no recidivism to date.*

Among other highlights, program activity remains noteworthy, with LAP outreach efforts resulting in a continued high rate of contacts initiated by members of the Bar and others. Maintaining the 2004 trend, there was increased participation in the program by attorneys not facing discipline by the State Bar. During 2005, the proportion of new LAP participants who were not involved in disciplinary proceedings increased to nearly three-quarters compared to 50 percent in 2004. This demonstrates clearly that the goal of early intervention is being achieved.

An outcomes study that will produce evidence of the short-term and long-term impact of participation in the LAP is currently under development. Already at the refinement stage, data collection for the study is expected to begin during the first quarter of 2006.

With the program well-established and in full operation, increased energy was focused on a key objective of the LAP Oversight Committee—a fundraising event and associated solicitations as a viable strategy for raising funds from the legal community to support out-of-pocket treatment and LAP participation costs for those attorneys unable to afford them. Many hours were spent planning the First Annual “Saving Careers, Saving Lives” Dinner, held on January 28, 2006 in Santa Monica in conjunction with the State Bar Section Education Institute. Additional fundraising efforts included a direct-mail solicitation of funding support from the top 100 law firms in California, and the submission of a grant application to the State Bar Foundation.

Outreach efforts were again successful in 2005. Two major articles referencing the LAP appeared in the July issue of the *California Bar Journal*. In addition, LAP staff delivered



33 continuing legal education presentations during 2005 to a wide range of local and statewide specialty bar associations and to law firms. Outreach to the bench included a presentation to a meeting of presiding judges and court executives, and distribution of the LAP video and brochure to judges attending Judicial College programs. In June, the LAP launched a newsletter, containing a variety of information about the program. The program also maintained a popular exhibit booth at the State Bar Annual Meeting.

Cooperation with complementary agencies continued in 2005. As in years past, the State Bar Court Alternative Discipline Program referred attorneys with pending disciplinary proceedings and investigations related to the consequences of substance abuse or mental health issues to the LAP, with closely coordinated interaction between the two agencies. The LAP and the Other Bar also continued to work together to provide a maximum level of service to all attorneys with substance abuse issues.

Demand for the LAP Short-term and Career Counseling services continued at a brisk pace during 2005, with 268 attorneys requesting this short-term assistance, a demand for that service similar to that of the prior year.

Program management and Oversight Committee members continue to be active in the work of the ABA Commission on Lawyer Assistance Programs (Co-LAP), regularly attending Co-LAP meetings and communicating with programs in other states.

While the program continues to grow at a pace that few would have predicted, the focus in 2006 will be on implementing important strategic initiatives, including increased outreach to minority and specialty bar associations and fundraising to support the program's Financial Assistance Plan.



# How the Program Works

The Lawyer Assistance Program was established by the California Legislature (Bus. & Prof. Code §§ 6140.9; 6230-38 (Appendix A)) as a result of Senate Bill 479 introduced in 2001 by then Sen. John Burton, president Pro Tem of the California State Senate. SB 479 was passed by the Legislature and signed into law effective January 1, 2002. Shortly after its startup, the LAP implemented an optimal assistance model.

Attorneys may enter the LAP during a pending disciplinary proceeding or voluntarily by self-referral. All participation in the LAP is completely voluntary and strictly confidential. An attorney who calls the LAP is assigned to a local Case Manager who is a licensed clinician experienced in the areas of substance abuse and mental health. The Case Manager immediately addresses any life-threatening issues, handles medical needs and provides emotional support.

A new participant immediately begins attending the closest LAP professionally facilitated support group and other local self-help programs as appropriate. Within a week the participant begins the LAP comprehensive assessment with the Case Manager. The newcomer is referred to medical and psychiatric professionals for evaluation if indicated.

Experience shows that these early interactions are essential to helping break through the denial that often characterizes these disorders, fostering the formation of critical personal alliances and friendships to lessen the isolation and shame that is typical in those afflicted, and reinforcing central elements of early recovery.

The participant meets regularly with the Case Manager, weekly with a professionally facilitated support group, and more frequently with other self-help groups. Inpatient or outpatient treatment begins, if indicated, with financial assistance from the LAP if necessary. The attorney meets with an Evaluation Committee (a physician, a clinician, and a local attorney experienced in recovery), which has reviewed reports from the Case Manager, Group Facilitator, evaluators, and treatment facilities. The individualized components of the participant's long-term recovery program are then determined, and the attorney signs a participation plan.

The Case Manager, Group Facilitator, and Evaluation Committee follow the participant throughout his or her program of structured recovery, and the Committee eventually determines when the participant has successfully completed the Program. This unique process ensures continuity of treatment and provides a multidisciplinary perspective. The process avoids some of the challenges faced by a sole clinician providing assess-



ment and monitoring, which may include perceived power struggles, personality clashes and resistance to authority. It also invites the participant to work actively with the multidisciplinary team on his or her recovery.

The LAP offers all State Bar members short term counseling (up to three sessions free of charge) with a local therapist who specializes in working with legal professionals. This counseling service addresses common problems such as stress, burnout, relationship conflicts, and career concerns, and is intended to identify and treat potential problems at the earliest possible stage.



# 2005: The Fourth Year in Review

## Program Activity

### Intakes

LAP outreach efforts have resulted in a sharp rise in program contacts initiated by members of the Bar and others. During the year 2005, over 693 attorneys received assistance from the LAP. At the end of 2005, there were 291 active participants, an increase of nineteen (19) percent over the number of participants at the end of 2004.

Chart A reflects the steady level of intakes throughout the year, attesting to great consistency in the referral process. In 2005, there was a total of 181 new intakes for the year — indicative of continued growth and progress towards goals, including a significant trend toward a predominance of self-referrals (compared to the number of new participants who were involved in disciplinary proceedings).

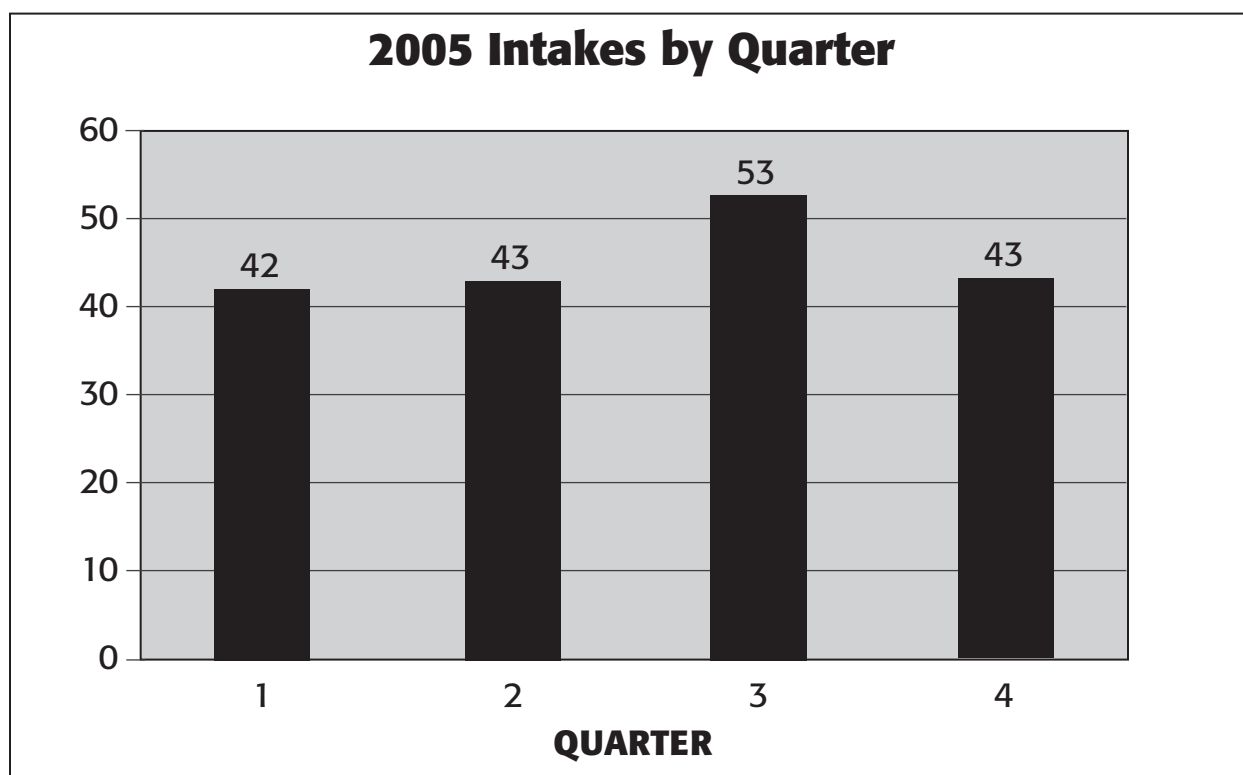


Chart A: *2005 Intakes by Quarter.*



The distribution of mental health and substance abuse diagnoses among participants is shown in Chart B. The chart shows that more than two-thirds of participants have a mental health diagnosis; this number continues to be much higher than originally anticipated. During 2005, thirty-seven (37) percent of participants had a substance abuse diagnosis without a concurrent mental health diagnosis. Thirty-five (35) percent of participants had a mental health diagnosis without a concurrent substance abuse diagnosis. Twenty-eight (28) percent had both mental health and substance abuse issues (dual diagnosis).

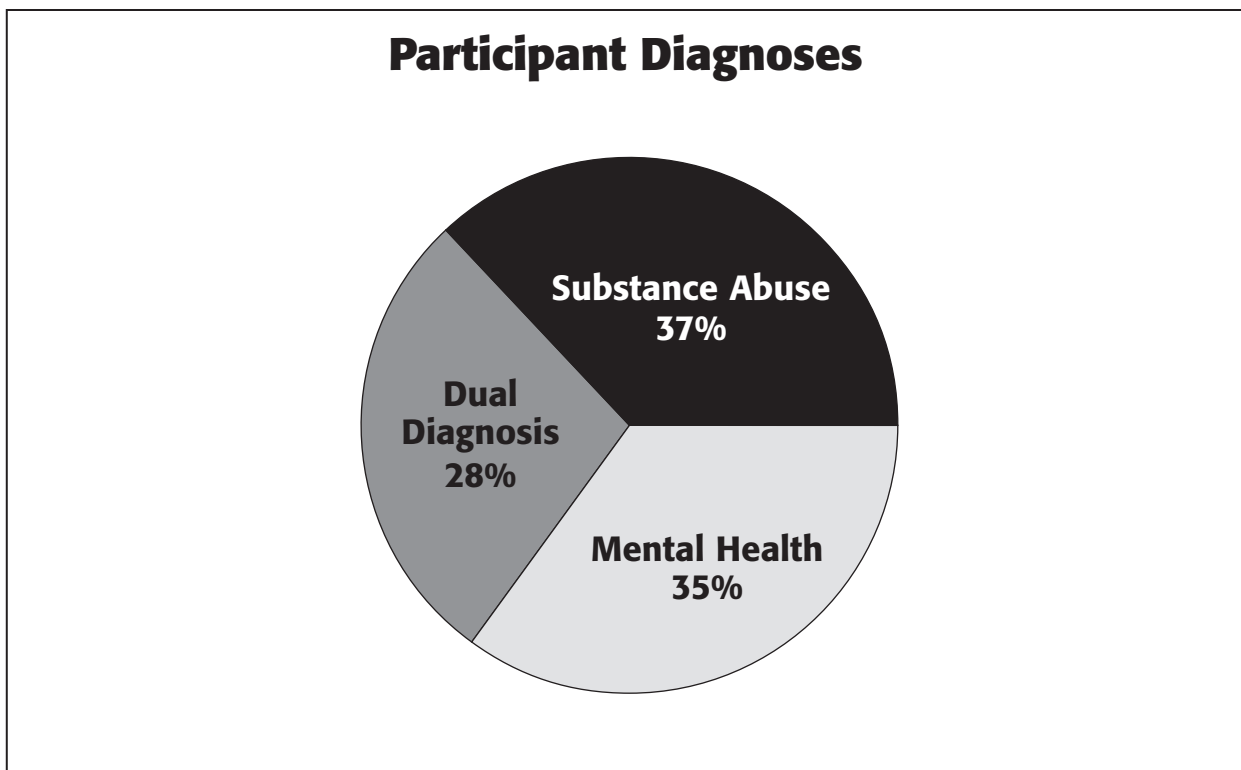


Chart B: *Participant Diagnoses.*

To accommodate the growing number of participants, the number of professionally facilitated group meetings continued to increase in 2005. There are now 30 meetings each week around the state. A roster of current Group Facilitators and group locations is attached as Appendix H.

The work of the Evaluation Committees also continued to expand during 2005. State-wide, there are four Evaluation Committees (two in the North, two in the South) that met a total of 29 times in 2005. A roster of current Evaluation Committee members is attached as Appendix G.



## **Terminations**

During 2005, the program participation of nineteen attorneys was terminated by the Evaluation Committee. All nineteen met the criterion for termination by failing to comply with the terms of the participation agreement (see Appendix C, “Criteria for Acceptance, Denial, Completion of, or Termination from the Lawyer Assistance Program”). In many cases, these attorneys return to the program at a later date, and achieve successful participation.

During 2005, three attorneys were denied acceptance into the program by the Evaluation Committee. These attorneys either failed to meet the criterion requiring that the applicant “shall be found to have a substance-related disorder or a mental health disorder” or met the criterion that “the applicant will not substantially benefit from participation in the Program” (see Appendix C).



## 2005 Highlights

### Increase in Self-Referrals

There is a clear indication of growing acceptance of the program as a confidential resource for all attorneys challenged by substance abuse and/or mental health concerns and of the program's success in meeting the statutory intent of early intervention.

As was the case in 2004, in 2005, there was an increase in participation in the program by attorneys not facing disciplinary charges before the State Bar. During the first two years of the program's operation nearly two-thirds of all participants faced some type of disciplinary proceedings. In 2004, only half of the new participants were involved in disciplinary proceedings.

During 2005, the proportion of new participants who were involved in disciplinary proceedings dropped to nearly one-quarter, as is shown in Chart C.

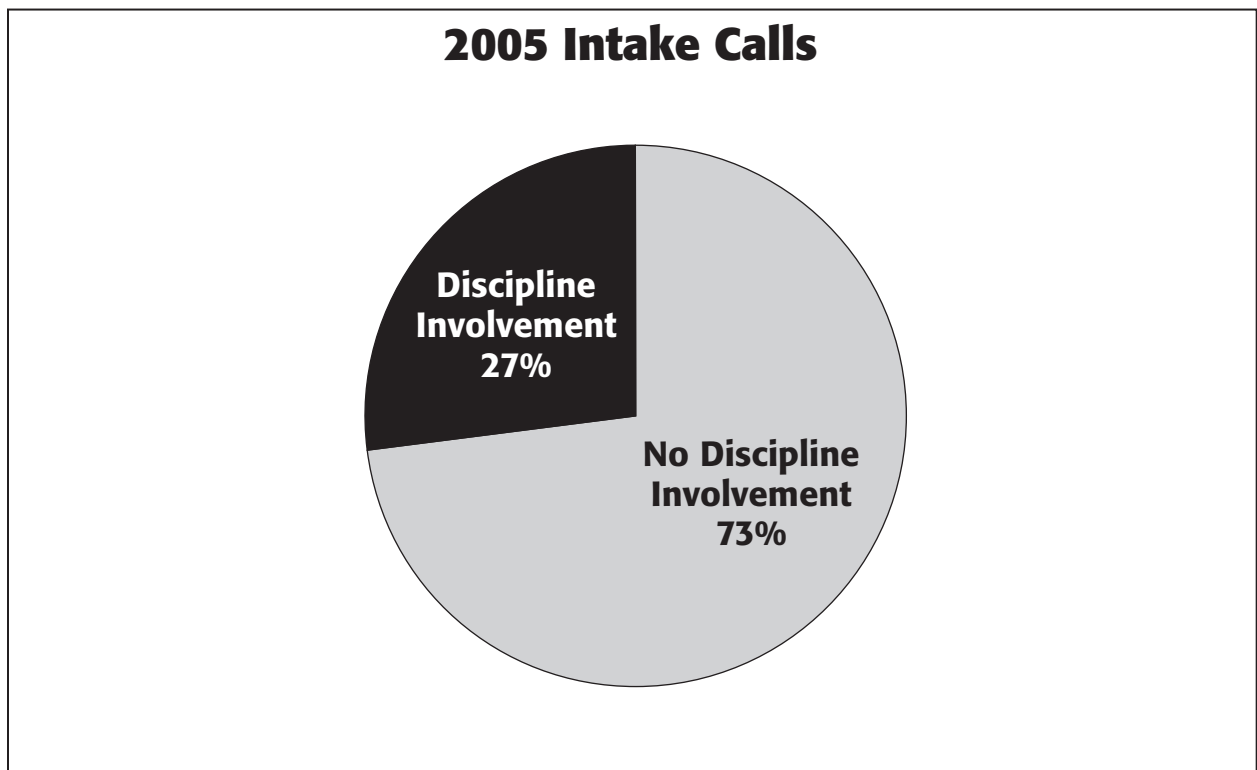


Chart C: 2005 Intake Calls.



## **Outcomes Study**

An outcomes study that will produce evidence of the short-term and long-term impact of participation in the LAP was designed in 2005. Developmental steps included finalizing the research design, identifying an appropriate research instrument, and developing a data collection methodology. Data collection will begin in earnest during the first quarter of 2006.

Various strategies were evaluated for collecting data from participants across an extended time period. Validated research instruments for measuring a wide-range of health status variables were reviewed. The LAP group meetings (where all LAP participants gather on a weekly basis) were identified as the natural setting for the regular collection of data.

On a quarterly basis, all participants will complete a research questionnaire. The chosen questionnaire will track changes in health status over time. This research instrument has been widely used to measure treatment outcomes for more than a decade. It measures changes in drug and alcohol use, other substance use, behavior patterns, health status, psychiatric disorders, social competence, family system, work adjustment, peer relationships, and leisure/recreation activities. Scores for each variable as well as a composite score are produced each time the participant completes the instrument. This system will allow staff to measure the degree of improvement of the entire participant population on both individual variables as well as on a composite basis. In addition, the publisher of the instrument is available to assist with analyzing and interpreting the results.

## **Fundraising Efforts**

The LAP Oversight Committee has long considered a fundraising event and associated solicitations to be a viable strategy for raising funds from the legal community to support out-of-pocket treatment and LAP participation costs for those attorneys unable to afford them. The First Annual “Saving Careers, Saving Lives” Dinner, was held on January 28, 2006 in Santa Monica in conjunction with the State Bar Section Education Institute.

In addition to raising funds for the Financial Assistance Plan, the event was planned to increase awareness of the program. James O. Heiting, President of the State Bar of California, a staunch supporter of the LAP and an inspiration to attorneys with substance abuse problems, was selected to be the event’s honoree.

Financial underwriting and in-kind support from various entities associated with the LAP was sought. As a result, seven organizations agreed to serve as event sponsors. The organizations are Lawyers Professional Liability Insurance Program, Arch Insurance Company, Marsh Affinity Group Services, Metropolitan News, Lenos Software, Betty Ford Center, and The Ranch Recovery Centers, Inc.



Additional fundraising efforts included a direct-mail solicitation of funding support from the top 100 law firms in California and the submission of a grant application to the State Bar Foundation. The Foundation notified the LAP in December of a grant award of \$7,000 in support of the program's outcomes study, with the possibility of additional funding support in future years.

### **Outreach Activities**

Two articles referencing the LAP appeared in the July issue of the *California Bar Journal*, a publication distributed to every member of the State Bar. "A Ruined Life Gets Back on Track" described one attorney's positive experience of LAP participation. "A Heavy Case-load of Addiction" described the work of the State Bar Court Alternative Discipline Program, a strict monitoring program in which discipline is held in abeyance while attorneys participate in the LAP. The December issue of the *California Bar Journal* also contained a notice regarding the "Saving Careers, Saving Lives" Dinner. Predictably, the program experienced an upswing in activity following the appearance of these *Journal* articles.

The LAP delivered 33 continuing legal education presentations during 2005 to a wide range of local and statewide specialty bar associations and to law firms. A letter will be mailed to every local, minority and specialty bar early in 2006 offering to provide MCLE presentations to their membership as a means of increasing this effective outreach activity.

Outreach to the bench during 2005 included a presentation in February to a meeting of California presiding judges and court executives, and distribution of the LAP 17-minute video and brochures to judges attending Judicial College programs.

The first issue of the LAP newsletter was released in June. Content included information about the program, as well as a strong endorsement of the program by a current participant whose name was withheld to protect her identity. A second issue was nearly completed by year's end, with release scheduled for the end of January. The newsletter is distributed throughout the State Bar and to every attorney who attends a LAP presentation.

Traffic was brisk at the LAP exhibit booth at the State Bar and California Judges Association Annual Meeting held in San Diego in September. Nearly a thousand copies of the LAP brochure and newsletter were distributed to judges and attorneys in attendance at the Annual Meeting.



## **Office of the Chief Trial Counsel**

Throughout 2005, the number of impaired attorneys with reported discipline problems continued to grow. At the end of 2005, there were 152 attorneys in the Alternative Discipline Program (“ADP”). These attorneys account for 299 cases in the discipline system, nearly half of all cases pending in the State Bar Court. All ADP cases are handled by a team of four deputy trial counsel (Cydney Batchelor, Charles Murray, Brooke Schafer and David Sauber).

Although the LAP and the Office of the Chief Trial Counsel (“OCTC”) are independent from one another, and do not exchange information about an impaired attorney without that attorney’s express written permission, there is increasing evidence that the cooperative effort of these two separate Bar entities is having a positive impact by protecting the public and reclaiming lives and careers of attorneys. Several respondents have now successfully completed the rigorous ADP requirements. Moreover, the vast majority of respondents in the discipline system who participate in a LAP-structured recovery program are now honoring their obligations to their clients and to the profession. Restitution is being paid; ethics education is being completed; and most important, there has been virtually no recidivism to date.

In view of this success, OCTC no longer resolves discipline cases involving an impaired attorney without factoring a monitoring and treatment protocol into the ultimate discipline if the attorney is allowed to continue to practice. The LAP is always OCTC’s first choice to provide that information because of its demonstrated level of commitment and expertise. Although participation in the LAP is voluntary on the part of respondents, OCTC urges all impaired attorneys to avail themselves of the program’s excellent services. In addition, to foster better understanding between OCTC and the LAP, deputies Batchelor and Murray continue to attend all LAP Oversight Committee meetings, and they continue to provide information about the OCTC policies and procedures to the LAP staff at in-service trainings. Deputy trial counsel Batchelor serves on the ABA Commission on Lawyer Assistance Programs, and deputy trial counsel Murray currently serves as the President of the California Association of Drug Court Professionals.



## **State Bar Court Alternative Discipline Program**

As in years past, attorneys with pending disciplinary proceedings and investigations related to the consequences of substance abuse or mental health issues were referred to the LAP by the State Bar Court Alternative Discipline Program (“ADP”). Acting Chief Court Counsel George Scott and Administrative Specialist Doug Hull closely coordinated the interaction of the State Bar Court and the LAP. In order to be accepted into the ADP, a respondent attorney must be accepted by the LAP and must comply with all LAP requirements. Currently, 89 respondents are enrolled in the ADP, 59 are in the evaluation process and seven have been referred for evaluation. These 155 respondent attorneys account for 293 separate disciplinary complaints. *ADP cases now comprise 44 percent of the State Bar Court caseload.*

In 2005, Business and Professions Code 6233 was amended. The amended statute provides greater flexibility for the Hearing Department Judge to allow ADP participants to serve any recommended period of actual suspension at the commencement of ADP participation instead of at the end; thus providing greater public protection at a time when it may be most needed.

## **Committee of Bar Examiners**

The Moral Character Subcommittee of the Committee of Bar Examiners frequently refers Bar admissions applicants to the LAP. Where Applications for the Determination of Moral Character reflect misconduct indicating that applicants would benefit from the services of the LAP, the Committee of Bar Examiners offers them an opportunity to have their application held in abeyance while they participate in the LAP program. During the period of abeyance, the LAP assesses applicants, provides recovery support, monitors participation and reports applicants’ compliance with their LAP Participation Plan to the Committee. During 2005, the Committee referred 12 applicants to the program.



## **The Other Bar**

The Other Bar worked together with the LAP to provide a maximum level of service to all attorneys with substance abuse issues. The services of the Other Bar continue to be largely funded by the State Bar through a \$372,000 annual contract. The Other Bar's consultants provide peer consultation and are available to speak with attorneys seeking advice or assistance with substance abuse issues. Other Bar consultants also inform callers of the availability of LAP services.

The services of the Other Bar and the LAP are complementary. The Other Bar does not provide the case management services rendered by the LAP; for this reason, the Other Bar consultants do not routinely make follow-up calls or otherwise monitor the outcome of their consultations. The LAP, in contrast, does not directly provide pure peer support or advice. Instead, the LAP offers professional treatment consultation, provides peer support by way of the professionally facilitated support groups, and encourages participants in the LAP to benefit from the peer support that they would receive by attending Other Bar meetings in their communities.

## **Short-term and Career Counseling**

In addition to the long-term recovery support services previously described (see "How the Program Works"), the LAP offers two additional forms of counseling to the membership: Short-term Counseling and Career Counseling. Short-term Counseling provides up to three sessions of counseling with a local therapist who specializes in working with legal professionals. Career Counseling provides up to three hours of consultation with a local career counselor who is experienced in helping legal professionals through important career transitions. Demand for these services continued at a fast pace during 2005, with a total of 268 attorneys requesting this short-term assistance, a number very close to the number served by this component of the program during the prior year.

## **ABA Commission on Lawyer Assistance Programs**

The ABA Commission on Lawyer Assistance Programs (Co-LAP) is an important means of sharing knowledge and resources among lawyer assistance programs throughout this country, Canada, and the United Kingdom. In 2005, program management and Oversight Committee members continued to be active in the work of Co-LAP, regularly attending Co-LAP meetings and communicating with other programs. Additionally, the Director has been serving on the planning committee for the 2006 Co-LAP Annual Conference, to be held in late October in San Francisco.



## **LAP Strategic Plan**

Based upon the governance model adopted by the Board of Governors, the LAP Oversight Committee developed a Long-Range Strategic Plan for the purposes of (1) articulating a long-term vision for the program, (2) developing and enhancing relationships with the LAP's many stakeholders, and (3) ensuring the viability and accountability of the program. The Plan includes an assessment of the external policy environment within which the program functions, a vision statement explaining the core values and mission of the program, goals, strategies, objectives, and performance indicators. As in years past, the Plan was revisited and updated at the Oversight Committee's first meeting of the year. The Committee's goals continue to be the following:

- Deliver Effective Outreach and Education
- Achieve Effective Early Intervention
- Demonstrate Program Results
- Ensure Sufficient Resources to Effectively Support Service Delivery
- Augment Available Financial Assistance Resources
- Foster the Network of Lawyer Assistance Programs Nationwide to Share Ideas and Information

2005 activities and accomplishments related to furthering each of these goals were described above in "2005 Highlights."

## **LAP Looks to the Future**

The Lawyer Assistance Program continues to grow at a pace that few would have predicted, while continuing to enhance the level of public protection and service to the membership of the State Bar of California. The program will focus in 2006 on implementing important strategic initiatives. Priorities will include:

- Beginning regular collection of data for the outcomes study described earlier in this report;
- Intensifying outreach to minority and specialty bar associations;
- Continuing to solicit financial sponsorship of the program's Financial Assistance Plan from the legal community and from those businesses that serve the legal community, principally through the use of direct mail campaigns; and
- Maintaining compliance with the strategic planning initiatives adopted by the Board of Governors pursuant to statutory mandate.



# Conclusion

After four years the LAP is no longer a start-up, but is instead, a mature operational program. Its results demonstrate its success. During 2005, 693 attorneys received assistance from the LAP, which confirms the compelling need for the LAP's services and the wisdom of the Legislature in providing for it.

By every indication the program will continue to expand at a rapid pace and accomplish its central goals: to support recovering attorneys in their rehabilitation and competent practice of law, to enhance public protection, and to maintain the integrity of the legal profession.



# Expenditures (Lawyer Assistance Program Fund)

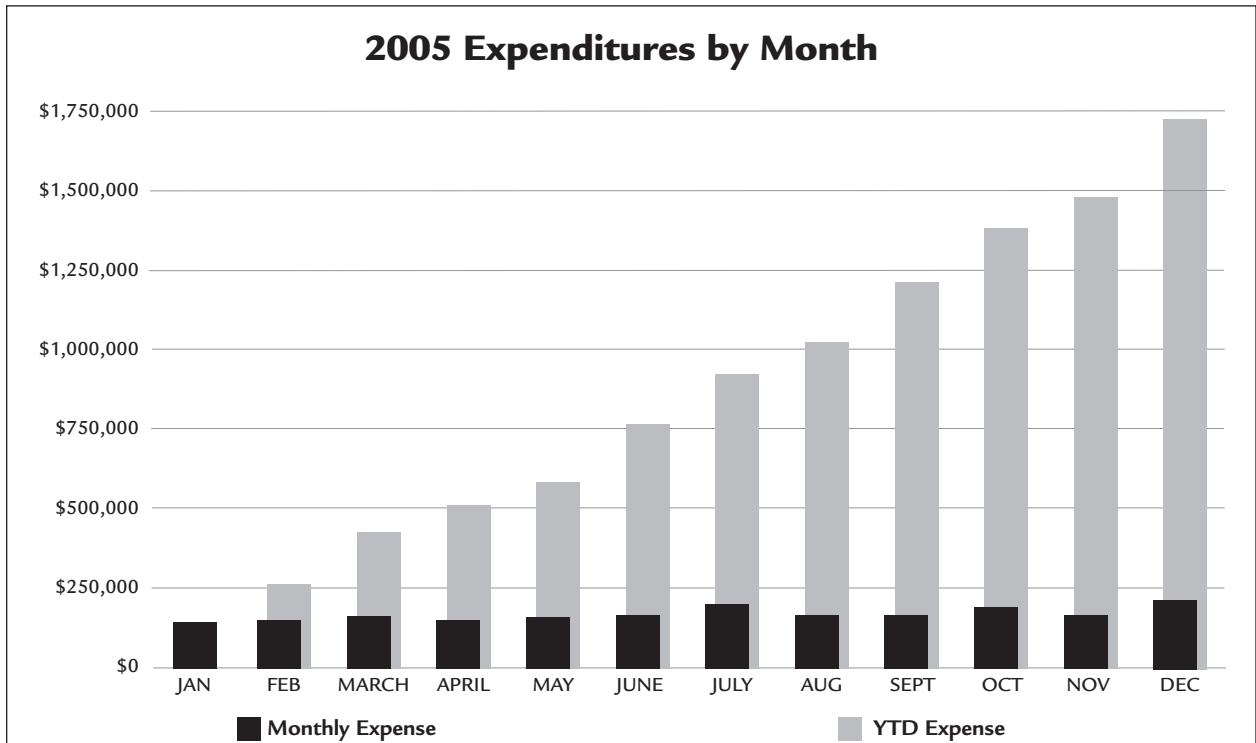


Chart D: 2005 Expenditures by Month.

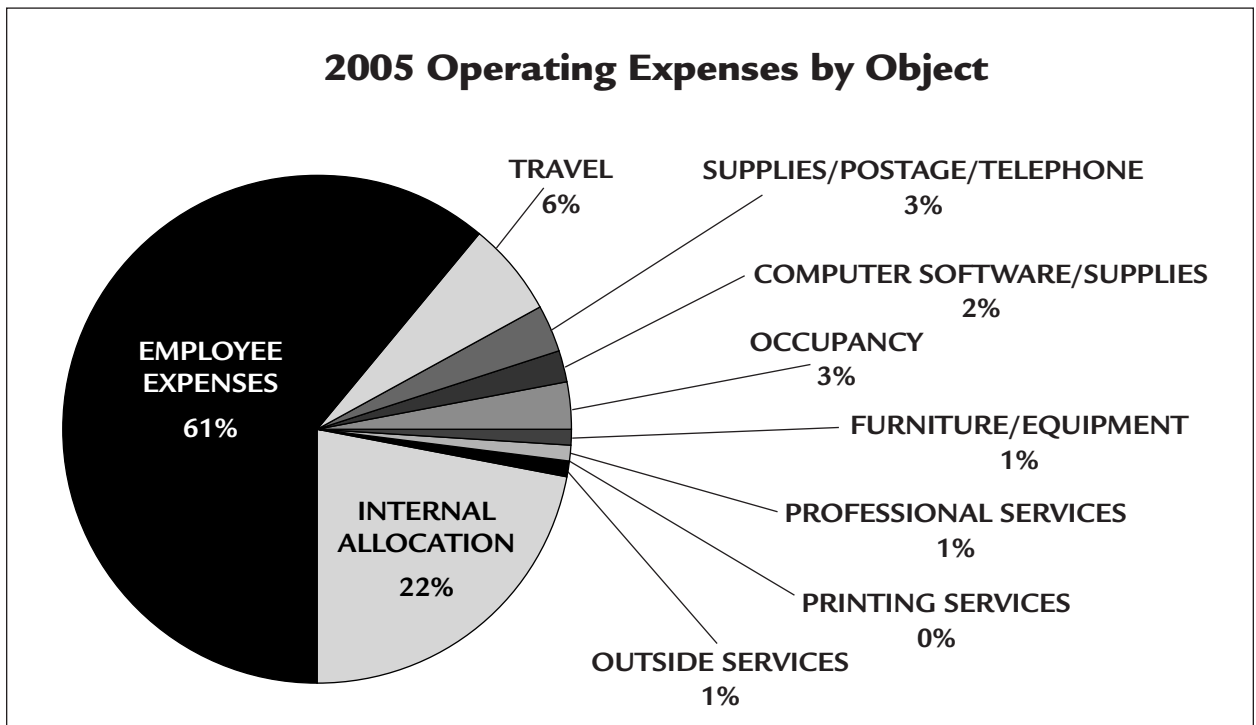


Chart E: 2005 Operating Expenses by Object.





## 2005 Statement of Revenue and Expenses

LAP Fund (Unaudited)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	2005
<i>Revenue</i>													\$1,874,037
<i>Expenses</i>	\$120,697	\$118,007	\$136,461	\$124,994	\$124,821	\$134,834	\$174,364	\$132,086	\$134,037	\$164,691	\$140,911	\$220,884	\$1,726,787
<i>YTD Total Expenses</i>	\$238,704	\$375,165	\$500,159	\$624,980	\$759,814	\$934,178	\$1,066,264	\$1,200,301	\$1,364,992	\$1,505,903	\$1,726,787		
<i>Net Operating Surplus/(Deficit)</i>													\$147,250
<i>Fund Balance January 1, 2005</i>													\$199,131
<i>Capital Assets Transferred to the Fixed Assets Fund</i>													0
<i>Fund Balance December 31, 2005</i>													\$346,381

*In 2005 the Lawyer Assistance Program was funded by proceeds generated from the State Bar sponsored Professional Liability Insurance Program. Since the inception of the program through December 31, 2004, \$771,755 has been paid to service providers on behalf of those members who applied for financial assistance pursuant to §6235 (b) of the State Bar Act. Of this amount, \$2,998 has been reimbursed by participants in the program. In 2006, the LAP will be operating with a budget of \$1,832,550 for operational and Oversight Committee costs and a budget of \$263,376 in the Legal Education and Development Fund for the Financial Assistance Program.*

Chart F: 2005 Statement of Revenue and Expenses.

# Appendix A

## ATTORNEY DIVERSION AND ASSISTANCE ACT

Business And Professions Code  
§§6140.9, 6230-6238

Added by SB 479 (Burton), Chapter 129, Statutes of 2001;  
Amended by AB 1708 (Assembly Judiciary Committee),  
Chapter 334, Statutes of 2003

SECTION 1. Section 6140.9 of the Business and Professions Code is amended to read:

6140.9 Moneys for the support of the program established pursuant to Article 15 (commencing with Section 6230) and related programs approved by the committee established pursuant to Section 6231 shall be paid in whole or part by a fee of ten dollars (\$10) per active member per year.

The board may seek alternative sources for funding the program. To the extent that funds from alternative sources are obtained and used for the support of the program, and provided that at least ten dollars (\$10) per active member is available for support of the program each year, funds provided by the fee established by this section may be applied to the costs of State Bar general fund programs.

SECTION 2. Article 15 (commencing with Section 6230) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

### Article 15. Attorney Diversion and Assistance Act

6230. It is the intent of the Legislature that the State Bar of California seek ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness, affecting competency so that attorneys so afflicted may be treated and returned to the practice of law in a manner that will not endanger the public health and safety.

6231. (a) The board shall establish and administer an Attorney Diversion and Assistance Program, and shall establish a committee to oversee the operation of the program. The committee shall be comprised of 12 members who shall be appointed as follows:

- (1) Six members appointed by the Board of Governors, including the following:
  - (A) Two members who are licensed mental health professionals with knowledge and expertise in the identification and treatment of substance abuse and mental illness.
  - (B) One member who is a physician with knowledge and expertise in the identification and treatment of alcoholism and substance abuse.
  - (C) One member of the board of directors of a statewide nonprofit organization established for the purpose of assisting lawyers with alcohol or substance abuse problems, which has been in continuous operation for a minimum of five years.
  - (D) Two members who are attorneys, at least one of which is in recovery and has at least five years of continuous sobriety.
- (2) Four members appointed by the Governor, including the following:
  - (A) Two members who are attorneys.
  - (B) Two members of the public.
- (3) One member of the public appointed by the Speaker of the Assembly.
- (4) One member of the public appointed by the Senate Rules Committee.

(b) Committee members shall serve terms of four years, and may be reappointed as many times as desired. The board shall stagger the terms of the initial members appointed.

(c) Subject to the approval of the board, the committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the program.

6232. (a) The committee shall establish practices and procedures for the acceptance, denial, completion, or termination of attorneys in the Attorney Diversion and Assistance Program, and may recommend rehabilitative criteria for adoption by the board for acceptance, denial, completion of, or termination from, the program.

(b) An attorney currently under investigation by the State Bar may enter the program in the following ways:

- (1) By referral of the Office of the Chief Trial Counsel.
- (2) By referral of the State Bar Court following the initiation of a disciplinary proceeding.



- (3) Voluntarily, and in accordance with terms and conditions agreed upon by the attorney participant with the Office of the Chief Trial Counsel or upon approval by the State Bar Court, as long as the investigation is based primarily on the self-administration of drugs or alcohol or the illegal possession, prescription, or nonviolent procurement of drugs for self-administration, or on mental illness, and does not involve actual harm to the public or his or her clients. An attorney seeking entry under this paragraph may be required to execute an agreement that violations of this chapter, or other statutes that would otherwise be the basis for discipline, may nevertheless be prosecuted if the attorney is terminated from the program for failure to comply with program requirements.

(c) Neither acceptance into nor participation in the Attorney Diversion and Assistance Program shall relieve the attorney of any lawful duties and obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

(d) An attorney who is not the subject of a current investigation may voluntarily enter, whether by self-referral or referral by a third party, the diversion and assistance program on a confidential basis. Confidentiality pursuant to this subdivision shall be absolute unless waived by the attorney.

6233. An attorney entering the diversion and assistance program pursuant to subdivision (b) of Section 6232 may be enrolled as an inactive member of the State Bar and not be entitled to practice law, or may be required to agree to various practice restrictions, including, where appropriate, restrictions on scope of practice and monetary accounting procedures. Upon the successful completion of the program, attorney participants who were placed on inactive status by the State Bar Court as a condition of program participation and who complied with any and all conditions of probation may receive credit for the period of inactive enrollment towards any period of actual suspension imposed by the Supreme Court, and shall be eligible for reinstatement to active status and a dismissal of the underlying allegations or a reduction in the recommended discipline. Those attorneys who participated in the program with practice restrictions shall be eligible to have those restrictions removed and to a dismissal of the underlying allegations or a reduction in the recommended discipline.

6234. Any information provided to or obtained by the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, shall be as follows:

- (a) Confidential and this confidentiality shall be absolute unless waived by the attorney.
- (b) Exempt from the provisions of Section 6086.1.
- (c) Not discoverable or admissible in any civil proceeding without the written consent of the attorney to whom the information pertains.
- (d) Not discoverable or admissible in any disciplinary proceeding without the written consent of the attorney to whom the information pertains.
- (e) Except with respect to the provisions of subdivision (d) of Section 6232, the limitations on the disclosure and admissibility of information in this section shall not apply to information relating to an attorney's noncooperation with, or unsuccessful completion of, the Attorney Diversion and Assistance Program, or any subcommittee or agent thereof, or to information otherwise obtained by the Office of the Chief Trial Counsel, by independent means, or from any other lawful source.

6235. (a) Participants in the Attorney Diversion and Assistance Program shall be responsible for all expenses relating to treatment and recovery. In addition, the State Bar may charge a reasonable administrative fee to participants for the purpose of offsetting the costs of maintaining the program.

(b) Notwithstanding subdivision (a), the State Bar shall establish a financial assistance program to ensure that no member is denied acceptance into the program solely due to the lack of ability to pay.

6236. The State Bar shall actively engage in outreach activities to make members, the legal community, and the general public aware of the existence and availability of the Attorney Diversion and Assistance Program. Outreach shall include, but not be limited to, the development and certification of minimum continuing legal education courses relating to the prevention, detection, and treatment of substance abuse, including no-cost and low-cost programs and materials pursuant to subdivision (d) of Section 6070, informing all members of the State Bar of the program's existence and benefits through both direct communication and targeted advertising, working in coordination with the judicial branch to inform the state's judges of the program's existence and availability as a disciplinary option, and working in cooperation with organizations that provide services and support to attorneys with issues related to substance abuse.

6237. It is the intent of the Legislature that the authorization of an Attorney Diversion and Assistance Program not be construed as limiting or altering the powers of the Supreme Court of this state to disbar or discipline members of the State Bar.

6238. The committee shall report to the Board of Governors and to the Legislature not later than March 1, 2003, and annually thereafter, on the implementation and operation of the program. The report shall include, but is not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance, and annual expenditures related to the program.



# Appendix B

## Rules and Regulations Governing the Lawyer Assistance Program

### Scope and Purpose

The Lawyer Assistance Program (LAP) was established by the Legislature as a means of identifying and rehabilitating attorneys with impairments due to the abuse of drugs or alcohol, or due to mental illness.

Pursuant to the Business & Professions Code section 6231, the board will establish a committee to oversee the operation of the Lawyer Assistance Program. Section 6231 I further provides that with the approval of the State Bar's Board of Governors "the committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the Program."

### Rule I

#### Oversight Committee: General Powers

Section 1. The Oversight Committee appointed by the State Bar of California, the Governor, the Speaker of the Assembly and the Senate Rules Committee pursuant to the provisions of the State Bar Act will be known as the Lawyer Assistance Program Oversight Committee ("Committee")

Section 2. The members of the Committee will serve terms of four (4) years and may be reappointed as many times as desired. The board will stagger the terms of the initial members appointed.

Section 3. The State Bar's Board of Governors will, on an annual basis, appoint a Chair and Vice-Chair for the Committee.

Section 3.1. Eligible candidates must have served at least one (1) full year of their term on the Committee and have at least one (1) full year of their term remaining.

Section 3.2. Any Committee member who is interested and eligible may submit his or her name, along with a one page written statement of qualification, no later than November 1. The current Chair will forward these names and statements to the designated Board of Governor's Committee for consideration.

Section 4. Meetings of the Committee may be held at such places in California and at such times as may be fixed by the Committee. Meetings may also be held at the offices of the State Bar, either in San Francisco or Los Angeles, at the call of the Chairperson or the Vice-Chairperson. Notice of the time and place of all meetings will be given in accordance with the Board of Governors of the State Bar of California's Policies Governing Open Meetings, Closed Sessions, and Records of Regulatory Committees.

Section 5. For the transaction of business, a quorum of the Committee will consist of one-half of all members appointed and sitting, plus one. However, less than that number may adjourn from day to day.

Section 6. The Committee is empowered to appoint subcommittees to facilitate the purpose and administration of these Rules. The Committee may act in any matter by a subcommittee composed of not less than two Committee members.

Section 7. Subject to the approval of the Board of Governors, the Committee may adopt reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the Program.

Section 8. The Committee will establish practices and procedures for the acceptance, denial, completion, or termination of attorneys participation in the Program, and it may recommend rehabilitative criteria for adoption by the Board of Governors.

Section 9. Written notice may be given by personal service or sent by mail, postage prepaid, addressed to the participant at the participant's official membership records address, and if sent by mail, will be deemed to have been received by the addressee five (5) days after deposit in the mail if the address is within the State of California, ten (10) days after deposit in the mail if the address is outside the State of California but within the United States, and twenty (20) days after deposit in the mail if the address is outside the United States.

Section 10. Unless specified otherwise in these rules, any forms, letters, applications or documents will be deemed filed with the Committee at the earlier of the following:

- (a) When actually received in substantially complete form as defined by the Committee, by the Committee at the State Bar offices in either San Francisco or Los Angeles;



- (b) On the date of the first postmark thereon if the form, letter, application or document is substantially complete as defined by the Committee and was placed in the United States mail postage prepaid and addressed to the Committee at either the State Bar's San Francisco or Los Angeles Offices.

## **Rule II**

### **Eligibility for Admission to the Lawyer Assistance Program: General Requirements**

Section 1. Any attorney may voluntarily enter the Program, for treatment purposes, on a confidential basis. Confidentiality pursuant to this section will be absolute unless waived in writing by the attorney.

Section 2. An attorney currently under investigation by the State Bar or following the initiation of a disciplinary proceeding, may also enter the Program by:

- (a) referral of the Office of Chief Trial Counsel;
- (b) by referral of the State Bar Court;

Section 3. Acceptance into, or participation in, the Program will not relieve an attorney who voluntarily enters the Program while under investigation, or following the initiation of a disciplinary proceeding, of any lawful duties or obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders, or applicable statutes relating to attorney discipline.

## **Rule III**

### **Administrative Costs and Fees**

Section 1. Attorneys will be responsible for payment of all expenses relating to treatment and recovery, including but not limited to the costs of hospitalization, drug testing, group meetings, individual therapy, etc.

Section 2. A reasonable administrative fee may also be charged to attorneys for the purpose of offsetting the costs of administering the Program.

Section 3. To ensure that no member attorney is denied acceptance into the Program solely due to the lack of ability to pay, member attorneys may apply for financial assistance from the fund established for this purpose by the State Bar.

Section 4. Former members may apply to participate in the Program. Former members are not eligible for program sponsored financial assistance.

## **Rule IV**

### **Confidentiality**

Section 1. An attorney who is not the subject of a current investigation may voluntarily enter the Program on a confidential basis. This confidentiality will be absolute unless waived by the attorney.

Section 2. Any information provided to or obtained by the Program, or any subcommittee or agent thereof, will be:

- (a) confidential, and this confidentiality will be absolute unless waived in writing by the attorney;
- (b) exempt from the provisions of Business and Professions Code section 6086.1;
- (c) not discoverable and/or not admissible in any civil proceeding, without the written consent of the attorney to whom the information relates;
- (d) not discoverable and/or not admissible in any disciplinary proceeding, without the written consent of the attorney to whom the information relates to;
- (e) except with respect to the provisions of subsection I of Business and Professions Code section 6231, the limitations on the disclosure and admissibility of information set forth in this section will not apply to information relating to an attorney's failure to cooperate with the Program, or with an attorney's unsuccessful completion of the Program.

## **Rule V**

### **Impact on Discipline**

Section 1. Acceptance into or participation in the Program will not relieve the attorney of any lawful duties and obligations otherwise required by any agreements or stipulations with the Office of the Chief Trial Counsel, court orders and applicable statutes relating to attorney discipline.

Section 2. The extent to which an investigation is terminated, formal charges are dismissed, or the level of discipline is reduced as a result of an attorney's participation in the Program, will be entirely dependant upon the terms of the attorney's agreement with the Office of the Chief Trial Counsel or the decisions or orders issued by the State Bar Court.



# Appendix C

## **Criteria for Acceptance, Denial, Completion of, or Termination from the Lawyer Assistance Program**

Pursuant to Business & Professions Code section 6232(a): “The committee . . . may recommend rehabilitative criteria for adoption by the board for acceptance, denial, completion of, or termination from, the program.”

### **I. Criteria for Acceptance**

An applicant shall meet the following criteria for acceptance into the Program:

1. The applicant shall be an active or inactive member, or former member of the State Bar of California;
2. The applicant shall be found to have a substance-related disorder or a mental health disorder;
3. The applicant shall voluntarily agree to participate in the Program;
4. The applicant shall agree in writing to comply with all of the elements of the participation agreement; and
5. The applicant shall cooperate with the Program by providing access to medical information, disclosure authorizations and releases of liability as may be necessary for participation in the Program.

### **II. Criteria for Denial**

An applicant may be denied participation in the Program in cases where any of the following conditions exist:

1. The applicant does not meet the criteria for acceptance into the Program;
2. The applicant will not substantially benefit from participation in the Program; and
3. The applicant’s participation in the Program is inconsistent with the Program’s mission of public protection.

### **III. Criteria for Completion**

Participants will be deemed to have completed the Program when all of the following conditions have been met:

1. The participant has maintained three years of continuous sobriety or, in cases of mental health, stability;
2. The participant has made lifestyle changes sufficient to maintain ongoing recovery or stability;
3. The participant has satisfied the terms of the participation agreement; and
4. The participant has participated in the Program for a period of five years, or as otherwise deemed appropriate by the Evaluation Committee.

### **IV. Criteria for Termination**

Participants may be terminated from Program participation when any of the following conditions exist:

1. The participant has failed to comply with the participation agreement, including but not limited to:
  - (a) Failure to comply with the prescribed monitoring or treatment recommendations, or
  - (b) Use of alcohol or other unauthorized drug;
  - (c) Any cause for denial of participation; and
  - (d) Failure to meet the criteria for acceptance to the Program.



# Appendix D

## Rules Governing the Financial Assistance Plan of The State Bar of California Lawyer Assistance Program

THESE ADMINISTRATIVE RULES are promulgated pursuant to the provisions of California Business and Professions Code section 6230 et seq. to aid in the implementation of the Lawyer Assistance Program.

### 1. POLICY STATEMENT.

(A) The LAWYER ASSISTANCE PROGRAM (hereinafter “PROGRAM”) is available to all members of the State Bar of California (hereinafter “State Bar”), pursuant to the provisions of California Business and Professions Code section 6235(b). These rules provide for financial aid to those attorneys who seek to and are eligible to participate in the PROGRAM (hereinafter “Applicants”) and who would otherwise be financially unable to do so. These rules will be construed for the purpose of enabling eligible Applicants to receive financial aid as permitted, provide for repayment, and, as applicable, forgiveness.

(B) The Lawyer Assistance Program Oversight Committee (hereinafter “COMMITTEE”) as defined under Business and Professions Code section 6231, can, as may be required from time to time, assign one or more of its members by way of a subcommittee, or appoint such other designee, to administer, manage or execute the duties of the COMMITTEE under the general supervision of the COMMITTEE and according to these Rules Governing the Financial Assistance Plan (hereinafter “Rules”).

(C) These Rules are adopted pursuant to the authority invested in the COMMITTEE, subject to the approval of the Board of Governors of the State Bar, pursuant to Business and Professions Code sections 6231I and 6232(a), and as otherwise allowed by law.

(D) The State Bar authorizes the COMMITTEE to perform all administrative functions under these Rules and to manage and monitor repayment obligations.

### 2. INCOME ELIGIBILITY CRITERIA.

As set forth in these Rules, the Applicant will be eligible for financial aid if the projected amortized amount of the monthly expense incurred in the matriculation through the PROGRAM exceeds fifty percent (50%) of the Applicant’s net disposable income. The COMMITTEE will determine eligibility as follows:

(A) The Applicant will reasonably project the total amount in expenses incurred in the administration of the PROGRAM, and amortize the same, without the accrual of interest, over a period of sixty (60) months, hereinafter “Estimated Amortized Monthly Expense” or “EAME”. In the event that the Applicant is unable to reasonably provide an EAME, or the COMMITTEE finds that the Applicant’s EAME is inaccurate, unsupported, wrong or overstated, the COMMITTEE may, at its own discretion and absent evidence to the contrary, substitute its own EAME in the amount of five hundred dollars (\$500.00) per month.

(B) In the event that the EAME exceeds fifty percent (50%) of the Applicant’s net disposable income, he or she will be entitled to financial assistance in payment of the EAME, subject to adjustments as set forth below, during the life of the Applicant’s active participation in the Attorney Diversion and Assistance Program.

(C) **Net disposable income** will be defined as the amount of average monthly income available, after deduction, for all normal, ordinary, necessary and reasonable household expenses, based on a community standard, incurred by the Applicant, the spouse of the Applicant, or any dependent of the Applicant, with due consideration given to any income of the spouse of the Applicant or any dependent thereof, and any consideration to any changes thereof to avoid any undue hardship, and due consideration to any intervening changes in income. **Average monthly income** means an income of the Applicant will be determined by averaging the monthly income over a 12-month period.

(D) The COMMITTEE may, at its option, demand and receive payment of the cost of an intake evaluation through a credit card, third party, guarantee, execution of a promissory note, or any other means, before offering further financial assistance to a potential Applicant in undertaking participation in the Attorney Diversion and Assistance Program. Absent countervailing evidence, the COMMITTEE will accept a promissory note for the amount



of the intake evaluation with payments at the rate of fifty dollars (\$50.00) per month, due thirty (30) days from the date of conclusion of the intake evaluation, in a form acceptable to the COMMITTEE. The obligation of the Applicant to pay under the promissory note, or to reimburse the State Bar for the intake evaluation, will be separate and apart from any other obligation herein.

### **3. APPLICATION, CONTENTS OF APPLICATION, VERIFICATION, RIGHT OF AUDIT.**

(A) The Applicant will duly execute an Application, seeking financial assistance, executing the same under penalty of perjury. The Application will contain a current financial statement showing all income, expenses, along with assets and liabilities of the Applicant. To the extent that the Applicant is married, the Applicant will likewise include any income, expenses, assets and liabilities deemed community property under and pursuant to the laws of the State of California, or declare that such income, expenses, assets and liabilities are separate property, and upon request, provide documentary proof thereof to the satisfaction of the COMMITTEE.

(B) The Applicant will provide a fully signed federal or state tax return for the preceding twenty-four (24) calendar months, or if no tax return has been filed, a reasonable facsimile thereof.

(C) The COMMITTEE will have the right by which to approve, deny, or condition any Application, and to determine the veracity of all statements therein.

(D) The COMMITTEE will have the right to engage in a random audit of any Application, and may request any other documents, which in the COMMITTEE's discretion, are necessary to verify any of the specific representations thereunder.

(E) In submitting such an Application, the Applicant waives any right to confidentiality pertaining and relating to any of the financial disclosures.

(F) Any Applicant whose Application is denied by the COMMITTEE'S designee, will have the right to request review of that denial by the COMMITTEE. Any such request for review will be submitted within thirty (30) days of the date notice of the designee's decision to deny is sent to the Applicant.

(G) The final decision of the COMMITTEE may be reviewed by the appropriate committee of the Board of Governors. The final decision of the board committee will constitute the final action of the State Bar.

### **4. LOAN AGREEMENT.**

(A) The Applicant will enter into a Loan Agreement that sets forth the terms and conditions of the contract between the State Bar and the Applicant.

(B) The COMMITTEE may, in its discretion, modify the terms of the loan agreement to accommodate the individual circumstances of each Applicant and to provide reasonable assurances that the Applicant will repay the loan.

### **5. INSURANCE.**

The fact that an Applicant, or the spouse of an Applicant, may be entitled to insurance, employment, or third party benefits, either in part or in whole, for any of the benefits provided under this PROGRAM, will not preclude the Applicant from seeking and receiving any financial assistance. The fact of insurance, employment, or third party benefits, which may cover, in part or in whole, the costs of such a PROGRAM, may also be considered by the COMMITTEE in determining eligibility. The Applicant will provide, upon request, copies of all insurance policies and other memoranda which document, directly or indirectly, the entitlement of the Applicant to any insurance benefits.

### **6. BENEFITS UNDER AN APPROVED APPLICATION.**

(A) EVALUATION COSTS. As set forth by these Rules, the Applicant may be entitled to financial assistance, subject to the terms and conditions mandated by the COMMITTEE.

(B) PARTICIPATION COSTS. In the event that financial assistance is granted, the Applicant will be entitled to a loan in an amount equal to the cost of the basic Lawyer Assistance Program. This loan is subject to and conditioned on an annual review and audit. The COMMITTEE may, at its discretion and subject to any just and reasonable terms and conditions, reevaluate the Application in light of any new or changed information; seek affirmation that the contents thereof are true and correct; or request an updated financial statement reflecting the income and financial obligations of the Applicant, and the spouse of the Applicant.



(C) TREATMENT COSTS. When inpatient or outpatient treatment is recommended by the Evaluation Committee or by staff, the Applicant may be entitled to a loan to cover the cost of this treatment, up to a lifetime cap of \$5,000 toward such expenses.

(D) The decision to grant or deny financial assistance will be at the sole discretion of the COMMITTEE, subject to administrative review.

## **7. CESSATION OF PAYMENTS, REVOCATION OF BENEFITS.**

In the event that the Applicant ceases to participate in the PROGRAM either by complete cessation, or cessation in any other manner as determined by the COMMITTEE, the COMMITTEE reserves the right to discontinue further payments, and the total amount of any loans or advances will be immediately due and payable by the Applicant. Interest will begin to accrue at the rate of seven percent (7%) per annum from the date of cessation or revocation.

## **8. OBLIGATION TO REPAY UPON COMPLETION OR SUCCESSFUL PARTICIPATION.**

(A) In the event that the Applicant earns a certificate of completion, or otherwise satisfies the COMMITTEE that he or she has successfully completed the PROGRAM, and absent an excuse for payment as set forth below, the Applicant will repay the COMMITTEE for all amounts advanced over a sixty (60) month period, amortized at a rate of seven percent (7%) interest per annum on the declining unpaid principal balance. In the event of default by nonpayment of any installment when otherwise due and payable (all installments due on the 1<sup>st</sup> day of each month), based upon the amortization schedule provided, the COMMITTEE will have the right, without further notice, to accelerate all the remaining installments, declare the same due and payable, and proceed to initiate appropriate civil litigation in a court of competent jurisdiction.

(B) For any cases of undue hardship, or for other good cause, the COMMITTEE may, at its discretion, waive any default payment, permits reinstatement for any missed installment, or extend the repayment period from a period of sixty (60) months to a period not to exceed a total of seventy-two (72) months.

## **9. FORGIVENESS OF DEBT.**

(A) By advancing credit under these Rules, the State Bar is making public funds available to assist the Applicant in resolving problems of substance abuse or mental illness, which may have impaired the Applicant's ability to perform as a member of the legal community, and the Applicant is receiving a financial loan, advance or extension of credit with a commitment to repay.

(B) Within sixty (60) days of earning a certificate of completion, or otherwise satisfying the COMMITTEE that he or she has successfully completed the PROGRAM, an Applicant may submit a written application requesting a waiver of this obligation on the basis that he or she is employed by or providing free legal services to a qualified legal service provider as defined below. The State Bar may waive and forgive any amount due and payable at the sole discretion of the PROGRAM Oversight Committee following a twenty four (24) month period of continued verifiable, full-time employment. In the event an Applicant is providing free legal services, or employed less than twenty four (24) months, or less than full-time in that capacity, the amount of such employment shall be deemed qualifying for no more than a pro-rata reduction of any amount due. Full-time employment means employment of at least thirty five (35) hours per week, and for no less than a full calendar year, allowing for normal and regular vacations, and may include self-employment if described services are verifiable.

(C) A "qualified legal service provider" for the purposes of this rule is a not-for-profit legal services organization which is receiving or is eligible to receive funds from the Legal Services Program as either a "qualified legal services project" as defined in Business and Professions Code sections 6214 and 6214.5, or a "qualified support center" as defined in Business and Professions Code section 6215.

(D) The loan repayment obligation shall be suspended up to twenty four (24) months, but only during the time the Applicant is engaged in an eligible capacity. Applicant's eligibility shall be reconfirmed on a monthly basis in the form of a written declaration submitted under penalty of perjury to the PROGRAM Oversight Committee.

(E) The decision to grant or deny an application for relief under this section is within the sole discretion of the State PROGRAM Oversight Committee. Any Applicant whose request for waiver is denied by the Oversight Committee shall have the right to request review of that denial by the Board Committee responsible for Member Oversight. However, the decision of the PROGRAM Oversight Committee shall not be overturned except upon a finding by the Board Committee responsible for Member Oversight that the PROGRAM Oversight Committee abused its discretion in making said decision.



#### **10. DUTY TO MAKE ANNUAL REPORTS.**

The COMMITTEE will, on an annual basis, make a report to the State Bar of all disbursements and collections, and all such other financial disclosures as may be requested. The COMMITTEE will maintain all records, books, papers, files, and accounting materials to allow for the accurate, detailed and timely reporting of all disbursements and collections.

#### **11. COLLECTION ACTIONS WILL BE IN THE NAME OF THE STATE BAR OF CALIFORNIA.**

In the event that it becomes necessary to collect a loan, advance, obligation or charge by taking action in any court, including but not limited to any state or federal tribunal, such action will be taken in the name of the STATE BAR OF CALIFORNIA, a public corporation.

#### **12. WAIVERS IN THE EVENT OF DEFAULT.**

In the event of default of any financial obligation owed by the Applicant to the State Bar, and to the extent that the State Bar files suit to effectuate collection thereof, Applicant, based on the default, waives to the extent necessary, confidentiality with respect to the fact that the Applicant was a participant in the Lawyer Assistance Program and received an advance, loan or extension of credit as consideration in the execution of any promissory note, Agreement, or other evidence of the indebtedness therein. In the event that the Applicant disputes the claim of the State Bar or raises any other matter affirmatively or otherwise, as a defense, the State Bar may in its discretion and only to the extent necessary, release such information as may be required to fairly litigate, defend, or rebut any claim of the Applicant. All necessary records concerning the loan from the Lawyer Assistance Program may be used as evidence in order to prove the Applicant's financial liability.



# Appendix E

## LAP Evaluation Committees—Duties, Terms of Service, and Criteria for Committee Membership

### I. DUTIES AND RESPONSIBILITIES

Each Evaluation Committee shall have the following duties and responsibilities:

1. Evaluating those applicants who are referred to or request acceptance into the Program;
2. Receiving and reviewing information, including reports from professional evaluators and treatment providers, regarding applicants and participants;
3. Establishing the terms of the participation agreement for each participant; and
4. Evaluating participants in the Program to determine completion or termination from the Program.

### II. TERMS OF COMMITTEE SERVICE

1. Appointments to Evaluation Committees shall be at the pleasure of the Program Oversight Committee.
2. Evaluation Committee members shall serve terms of four years, and may be reappointed as many times as desired. The Oversight Committee shall stagger the terms of the initial membership appointed.
3. Evaluation Committee members shall receive reimbursement for travel expenses.
4. Each Evaluation Committee shall consist of three to four members. Three members shall constitute a quorum for conducting business, the Director and the Deputy Director may substitute for purposes of achieving a quorum. Each Committee shall include at least one physician member. Committee composition shall be as follows:
  - One physician member, who specializes in the practice of psychiatry; a psychologist may serve as an alternate in this position;
  - One of two clinical members: Physician, Marriage Counselor, Marriage and Family Therapist, Psychologist, Drug and Alcohol Counselor, or Registered Nurse;
  - One Attorney member.

### III. CRITERIA FOR COMMITTEE MEMBERSHIP

Evaluation Committee members shall meet the following criteria:

1. If a physician member, must possess a current, unrestricted medical license in good standing with no current accusation pending.
2. If a clinician/therapist member, must possess a current, unrestricted license in good standing with no current accusation pending from the Board of Behavioral Science or the Board of Psychology, or be certified alcohol & drug counselor or specialist.
3. All physician and clinician/therapist members must have experience in providing assessment or treatment of addictions or involvement in programs monitoring professionals in recovery.
4. If a former participant in a professionals monitoring program, must have successfully completed the program at least two years prior to appointment.
5. If recovering from a substance-related disorder, must have a minimum of five years uninterrupted recovery.



# Appendix F

Members of the Oversight Committee			
Name	Background	Appointed by	Statutory Role
James E. Blancarte, J.D.	Attorney in private practice in Los Angeles; former member LA City Fire Commission	Governor	Attorney
Lyman H. Boynton, M.D.	Physician, addiction medicine consultant; former Chair, Department of Addiction Medicine, KPMG	Board of Governors	Physician
Edwin Caldwell, J.D., L.L.B.	Attorney in private practice in San Rafael	Board of Governors	Attorney
Richard Carrillo	Investigator, California DMV; former teacher and police officer	Governor	Public Member
Kellie M. Condon, Ph.D.	Clinical psychologist, Veteran Affairs, Greater Los Angeles Health Care System	Board of Governors	Mental Health Professional
Mitchell Englander	Chief of Staff, LA City Council member Greg Smith; Pres., CA AAPC; Board Member, LA Chapter American Diabetes Association	Speaker of the Assembly	Public Member
Richard Ewaniszyk, J.D.	Attorney in private practice in Victorville	Board of Governors	Board of Directors of the Other Bar
David S. Hobler, J.D.	Attorney in private practice in Mill Valley; founder and director Fit in Recovery	Governor	Attorney
Stewart Hsieh, J.D.	Attorney in private practice in Los Angeles; former President of the Medical Board of California	Board of Governors	Attorney
Michael S. Parr, M.D.	Physician and addiction specialist in private practice in Sacramento	Senate Rules Committee	Public Member
John H. Shale, M.D., J.D.	Medical Director of the San Diego County Adult Mental Health Services	Board of Governors	Mental Health Professional
Dorothy Tucker, Ph.D., Ph.D.	Psychologist; Los Angeles Police Department; member, State Bar Board of Governors	Governor	Public Member



# Appendix G

## Evaluation Committee Member Roster

- Philip Belleville, JD, MAC, MS
- Lyman Boynton, MD
- Shannon Chavez, MD
- Betsy Johnson, JD
- Nancy K. Otterness, PhD
- Robert Stewart, JD
- Robert J. Sullivan, JD
- Jim Tracy, DDS, CADC
- Craig D. Weiner, MD



# Appendix H

## Group Facilitator Roster

- Claudia Brennan, MFT – Santa Rosa
- Louis Buchhold, MFT – Palm Springs
- Larry Collins, MFT – Chico
- James Conway, MFT – Culver City
- James Driscoll, CADC – Fresno
- Morris Gelbart, PhD – Torrance
- Donna Gugliotta, MFT – Tustin and Laguna Niguel
- Kim Haveson, LCSW – San Jose
- Paula Heegaard, MFT – Redwood City
- Dean Janoff, PhD – Santa Barbara
- Kim Nakae, MFT – North Hollywood, Pasadena, and Woodland Hills
- Kirby Palmer, LCSW – Claremont
- Len Wegiel, MFT – San Diego
- Tim Willison, MFT – Davis, Oakland, Sacramento, and San Francisco



# Appendix I

## LAP Staff Roster 2005

### **Division of Member Services**

Starr Babcock, JD	Senior Executive, Member Services Division
Janis Thibault, MFT, CADC	Director
Richard Carlton, MPH	Deputy Director
Jeanie Griffin, MFT, CADC	Supervising Case Specialist (So. California)
Pam Poley, MFT, CADC	Supervising Case Specialist (No. California)
Anna Gray, MFT	Case Manager (No. California)
Greg Miller, MFT, CADC	Case Manager (No. California)
Louis Buchhold, MFT	Case Manager (So. California)
Lynne Ewing, MFTI	Case Manager (So. California)
Alex Yufik, JD, PsyD	Case Manager (So. California)
Gary Greene	Case Management Assistant (So. California)
Justin Ewert	Program Coordinator
Kristine Constantino	Administrative Assistant
Nessa Williams	Administrative Assistant

### **Office of General Counsel**

Patricia Scotlan, JD	Assistant General Counsel
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